



Korea / Cold War Families Annual Briefing

INFORMATION ACCESS OVERVIEW

**SHEILA FRAZIER
DPMO DECLASSIFICATION/
FOIA DIVISION**



GUIDING PHILOSOPHY:

- **FAMILIES NEED NOT BE LAWYERS**
- **PROCESS SHOULD BE AS PAINLESS AS POSSIBLE**
- **SERVICE CASUALTY OFFICE (SCO) IS 1ST LINE ADVOCATE**
- **SEE “FAMILY GUIDE TO OBTAINING POW/MP INFORMATION”**



GUIDING STATUTES & DIRECTIVES

- **MCCAIN “BILL”**
- **EO 12812**
- **PDD / NSC-8**
- **MISSING SERVICE PERSONNEL ACT**
- **EO 12958**
- **SOME SLIDES VIETNAM ONLY–
INCLUDED FOR COMPLETENESS**



MCCAIN “BILL”

- 50 USC SEC 435 NOTE
- PL 102-190 SEC 1082 DEC 5, 1991
AS AMENDED FY 95 & 96



HISTORY OF THE LAW

- **SENATOR MCCAIN**
- **5 DECEMBER 1991**
- **INITIALLY VIETNAM ONLY**
- **PNOK CONSENT**
- **TWO AMENDMENTS**



HISTORY OF THE LAW

- **FIRST AMENDMENT**
 - **FY 95 NATIONAL DEFENSE AUTHORIZATION ACT**
- **INCLUDE KOREA / COLD WAR**



HISTORY OF THE LAW

- **SECOND AMENDMENT**
 - **FY 96 NATIONAL DEFENSE AUTHORIZATION ACT**
 - **90 DAYS TO LOCATE PNOK FOR CONSENT**
 - **DPMO AND SCO ALLOWED OVER 2 YEARS**



MCCAIN BILL

- REQUIRES DOD-WIDE RELEASE OF INFORMATION ON MISSING PERSONNEL
- POST INCIDENT TREATMENT, LOCATION, AND/OR CONDITION (TLC)
- ESTABLISHES EXCLUSIONS FOR NON-RELEASE OF CERTAIN INFORMATION



MCCAIN BILL

- REQUIRED TO BE PLACED IN A LIBRARY-LIKE SETTING IN THE NATIONAL CAPITAL REGION
- DPMO HAS PROCESSED 1,017,250 PAGES AND PLACED IN LOC
- INDEX OF DOCS ON LOC WEB SITE
- “POW /MIA DATABASE”
- KEY WORD SEARCHABLE
- ON MICRO-FILM
- CONVERTING TO DIGITAL IMAGE - 68%



MCCAIN BILL

- VIETNAM
 - SECDEF IS “OFFICIAL CUSTODIAN”
 - LIBRARY OF CONGRESS IS REPOSITORY
- KOREA / COLD WAR CONFLICTS
 - ARCHIVIST OF THE UNITED STATES IS “OFFICIAL CUSTODIAN”
 - NATIONAL ARCHIVES (NARA) IS THE REPOSITORY



PNOK CONSENT/NON-CONSENT

- VIETNAM
 - IF THE PNOK IS **UNLOCATABLE**,
CONSENT IS CONSIDERED TO BE “**YES**”
 - IF THE PNOK RECEIVED THE LETTER BUT
DID NOT RESPOND, CONSENT IS
CONSIDERED TO BE “**NO**” (NO CONSENT)
 - **RECEIPT FOR DELIVERY**



PNOK CONSENT/NON-CONSENT

- KOREA / COLD WAR
 - IF NO RESPONSE FROM THE PNOK, OR UNLOCATABLE, CONSENT TO RELEASE IS CONSIDERED TO BE GRANTED



TREATMENT, LOCATION, CONDITION

- TREATMENT
 - CIRCUMSTANCES OF CAPTURE / INTERNMENT
 - INTERROGATION TECHNIQUES
 - PHYSICAL OR MENTAL TREATMENT



TREATMENT, LOCATION, CONDITION

- LOCATION
 - IDENTIFIABLE GEOGRAPHIC FEATURE
 - PLACE NAME
 - MAP COORDINATES
 - PRISON NAME



TREATMENT, LOCATION, CONDITION

- **CONDITION**
 - PHYSICAL OR MENTAL CONDITION
 - SPECIFIC INJURIES
 - DEATH
 - REMAINS
 - NON-BIOLOGICAL EVIDENCE
 - **E.G.: LIFE SUPPORT EQUIPMENT**



HIGHLIGHTS

- THE MCCAIN BILL **IS NOT** AN ISSUE OF CLASSIFICATION
- APPLIES ALSO TO UNCLASSIFIED OR DECLASSIFIED INFORMATION



HIGHLIGHTS

- THE MCCAIN BILL APPLIES TO DOD MATERIAL
- INCLUDES MATERIAL GENERATED IN THE **PAST**, THAT WHICH IS PRODUCED IN THE **PRESENT**, AND ANY THAT MAY BE DEVELOPED IN THE **FUTURE**



HIGHLIGHTS

- THE LAW **DOES NOT** APPLY TO RETURNEES AND REMAINS RETURNED PRIOR TO DECEMBER 1991(VIETNAM) OR FY95 NDAA (KOREA)
- ALSO **DOES NOT** APPLY ONCE REMAINS ARE IDENTIFIED AND RETURNED TO THE PNOK



EO 12812

- VIETNAM ONLY
- SIGNED JULY 1992 BY PRESIDENT BUSH
- APPLIES TO ALL EXECUTIVE BRANCH
- REQUIRES PROCESSING & RELEASE OF ALL POW/MIA RECORDS RELATING TO THE VIETNAM ERA
 - MORE INCLUSIVE THAN MCCAIN



EO 12812

- LIMITED BY EXCLUSIONS OF “MCCAIN BILL” & OTHER APPLICABLE LAWS
- THE REQUIREMENT HAS NO TERMINATION DATE
 - PAST, PRESENT, & FUTURE RECORDS



PDD / NSC-8

- VIETNAM ONLY
- SIGNED JUNE 1993 BY PRESIDENT CLINTON
- APPLIES TO ALL EXECUTIVE BRANCH
- REQUIRED COMPLIANCE WITH EO 12812 BY VETERANS' DAY 1993



PDD / NSC-8

- DPMO COMPLIED – HAD A HEAD START WITH CDO
- ALL DOD COMPLIED TO THE BEST OF OUR KNOWLEDGE
- WORK CONTINUES WITH NEW DOCUMENTS AND DISCOVERY OF PREVIOUSLY UNLOCATED DOCUMENTS



MISSING SERVICE PERSONNEL ACT

- 10 USC SECTIONS 1501 – 1513
- PRESIDENT CLINTON SIGNED AMMENDMENTS TO SECTION 1506 IN FEBRUARY 1996 & OCTOBER 1999
- GIVES STATUTORY PROTECTION TO CERTAIN DEBRIEFINGS OF EX-POWS RETURNING FROM CAPTIVITY



MISSING SERVICE PERSONNEL ACT

- SECTION 1506 (d)(1) APPLIES TO EX-POW DEBRIEFINGS OBTAINED FROM FEBRUARY 11, 1996 INTO THE FUTURE
- SECTION 1506 (f) APPLIES TO DEBRIEFINGS OBTAINED FROM JULY 8, 1959 TO FEBRUARY 10, 1996



MISSING SERVICE PERSONNEL ACT

- ORIGINAL INTENT OF CONGRESS WAS TO INCLUDE THE VIETNAM ERA
- LEGAL OPINION OF “LEGISLATIVE CONSTRUCTION” EXCLUDED VIETNAM
- COURT TEST NOT DESIRED
- SECTION 1506 (f) ADDED TO INCLUDE VIETNAM ERA



MISSING SERVICE PERSONNEL ACT

- KOREAN WAR ERA DEBRIEFINGS DELIBERATELY NOT INCLUDED
- MANY KW DEBRIEFINGS ALREADY RELEASED AND COMPROMISED
- WOULD HAVE WEAKENED THE LEGISLATION IN A COURT TEST
- RELEASE REQUIRES REVIEW TO PROTECT PRIVACY INTERESTS



PURPOSES OF PROTECTION

- PROTECT SENSITIVE UNCLASSIFIED CONTENT OF DEBRIEFINGS
- ENCOURAGE FREE & UNINHIBITED DISCUSSION OF CAPTIVITY EXPERIENCES
- KEEP U.S. GOVERNMENT PROMISE OF CONFIDENTIALITY TO RETURNEES



PURPOSES OF PROTECTION

- **EXPLOIT RETURNEE INFO**
 - **TO LOCATE AND RESCUE THOSE STILL IN CAPTIVITY**
 - **TO FORMULATE & REFINE SERE DOCTRINE**
 - **TO SURVIVE IF IN A LOSS SITUATION**
 - **TO AVOID CAPTURE**
 - **TO ENDURE CAPTIVITY WITH HONOR**
 - **TO ESCAPE FROM CAPTIVITY IF POSSIBLE**



PURPOSES OF PROTECTION

- IF DEBRIEFING STATEMENTS / EXPERIENCES RELEASED TO PUBLIC, FUTURE RETURNEES WILL PROVIDE LESS INFORMATION
 - THIS WOULD DEGRADE USG ABILITY TO COLLECT VALUABLE INFORMATION



MISSING SERVICE PERSONNEL ACT

- ESTABLISHES DEBRIEFINGS AS A CLASS OF “PRIVILEGED INFORMATION”
 - FOIA (b)(3) & (b)(5)
- SPECIFICALLY **EXEMPTED** FROM FOIA & PRIVACY ACT RELEASE



MISSING SERVICE PERSONNEL ACT

- SUMMARIES ARE PERMITTED
 - SIGHTINGS OF OR INFO ABOUT UNACCOUNTED-FOR
 - PROVIDED TO FAMILIES OF MISSING
 - NO DEROGATORY INFO
 - SOURCE OF INFO NOT REVEALED



MISSING SERVICE PERSONNEL ACT

- DEBRIEFINGS ARE USG PROPERTY
- MAY BE REVIEWED BY RETURNEES
 - CONTACT JOINT PERSONNEL RECOVERY AGENCY (JPRA) @ 703-704-2203
- NO COPIES / NO NOTES MAY BE TAKEN
- MEMORY REFRESHER ONLY



MISSING SERVICE PERSONNEL ACT

- DEBRIEFING REPOSITORIES
 - KOREA / COLD WAR – NATIONAL ARCHIVES (NARA)
 - VIETNAM ERA – SECDEF (JPRA)
 - POST VIETNAM – SECDEF (JPRA)



EXECUTIVE ORDER 12958

CLASSIFICATION & DECLASSIFICATION

- SYSTEMATIC REVIEW
 - PERMANENT HISTORICAL VALUE
- MANDATORY REVIEW
 - UPON REQUEST BY INDIVIDUAL
- AUTOMATIC DECLASSIFICATION REVIEW (25 YEARS OR OLDER)
- FOIA – NOK NEED NOT INVOKE– SEE HANDOUT



KINDS OF DOCUMENTS

- FOREIGN
 - REFUGEE / WITNESS REPORTS (“STONY BEACH” / “ORDERLY DEPARTURE PROGRAM”)
- FOREIGN ARCHIVES, MUSEUMS
- FORMER ADVERSARIES: MILITARY MEMBERS & GOVERNMENT OFFICIALS (“ORAL HISTORY PROGRAM”)
- OFFICIAL REPORTS, WAR-TIME FILMS & PHOTOGRAPHS



KINDS OF DOCUMENTS

- DOMESTIC
 - PRESIDENTIAL, NSC, DOD, DOS, CIA, DIA, NSA, FBI, NARA, SERVICE HISTORY AND INTELLIGENCE OFFICES
 - CASUALTY FILES, KW DEBRIEFINGS, PAST & PRESENT RECOVERY EFFORTS (JPAC AND PREDECESSORS)



POINTS OF CONTACT:

- CONTACT YOUR RESPECTIVE SERVICE CASUALTY OFFICE (SCO)
- NOT EVERY OFFICE HOLDS EVERY RECORD
- THE SCO WILL REFER YOUR REQUEST TO THE CORRECT REPOSITORIES
- SEE HANDOUT FOR MORE INFO



